

### **THE AMENDMENT**

Claims 1-3, 9, 17, 19, 33, 34 and 37 are in the case. Claims 1 and 33 has been amended.  
Claims 43-46 are new.

The amendment to the Specification at page 2 is to update the status of copending cross-referenced applications (see Section 2 below). A minor grammatical error (apparent from its context) is also corrected in the same paragraph.

The amendment to claims 1 and 33 regarding the display character being “moved to a position relative to other display characters to indicate the indicium” is supported by (i) Figures 9-12 where one of the display characters is shown moved to a position relative to other display characters to indicate an indicium and (ii) discussion at paragraphs [59] (page 12) and [87] (page 22) of the original Specification.

Support for new claims 43-44 is provided by Figures 9-13 in combination with the discussion at paragraphs [59] (page 12), [87] (page 22) and [100] (page 26) of the original Specification. New claims 45-46 are based on currently amended claims 1 and 33 and are additionally supported by Figures 9-13 in combination with the discussion at paragraphs [59] (page 12), [87] (page 22) and [100] (page 26) of the original Specification.

Based on Applicants’ election of species involving claim 3 (December 6, 2007), Applicants identify new claims 43-46 as readable upon the elected species according to MPEP §809.02(a).

Applicants respectfully submit that the Amendment does not introduce new matter and request that the Amendment be entered.

## **REMARKS**

### **1. Brief Review of One Embodiment of Applicants' Invention**

In one embodiment, the present invention is directed to a gaming apparatus including a housing defining a display area on which at least one indicium representing at least one prize is displayed. The gaming apparatus also may include a plurality of display characters with at least one of the display characters being configured to move to a position relative to other display characters to indicate at least one indicium. The gaming apparatus further includes a controller in communication with at least one of the plurality of display characters and configured to direct the movement of the display character. The controller is also configured to generate a random number and generate a game outcome based on the random number. The controller is configured to move at least one display character to a position relative to other display characters to indicate at least one indicium that corresponds to the game outcome.

### **2. The Specification.**

The Office has requested an update of the Specification to reflect the status of related applications. Accordingly, Applicants have amended the Specification at page 2, paragraph [3].

### **3. Rejection of claims 1-3, 9, 17, 19, 33, 34 and 37 under 35 U.S.C. §103(a) as being unpatentable over Fey (*Slot Machines, A Pictorial History of the First 100 Years*, Liberty Bell Books, 1983) in view of Baerlocher (U.S. Patent No. 6,336,863).**

Claims 1-3, 9, 17, 19, 33, 34 and 37 stand rejected under 35 U.S.C. §103(a) as being obvious over Fey in view of Baerlocher. Applicants respectfully traverse the rejection.

Fey appears to disclose a three-spindle Reliance slot machine with three arrows pointing to various prize identifiers.

Baerlocher appears to disclose a slot machine with an arrow pointing to various bonus prize identifiers.

Regarding independent claims 1 and 33 and new independent claim 45, Applicants submit that there is no suggestion or disclosure in Fey or Baerlocher, either alone or in combination, regarding the use of display characters that are moved to a position relative to other display characters to identify indicium corresponding to a prize. Indeed, Fey and Baerlocher only disclose “arrow” indicators that point directly to a prize identifier, but the arrows are not moved to a position relative to each other to indicate an indicium, as required by Applicants’ claimed invention. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. 103(a) be withdrawn.

Regarding dependent claims 2-3, 9, 17, 19, 34, 37, 43-44 and 46, Applicants submit that these claims are not obvious over Fey in view of Baerlocher. Based on the discussion presented above regarding independent claims 1, 33 and 45 (from which claims 2-3, 9, 17, 19, 34, 37, 43-44 and 46 are dependent), Applicant respectfully submits that a *prima facie* case of obviousness has not been established since “... all the claim limitations must be taught or suggested by the prior art ...” (see MPEP 2143.03). Therefore, Applicants respectfully request withdrawal of the rejection under 35 USC §103(a).

#### **4. Double Patenting**

The Office contends that the claims of the present application “conflict with claims 1-19 of Application Serial No. 11/239,784” and cite 37 CFR §1.78(b), i.e., allegedly, the claims are not patentably distinct from each other. Applicants respectfully traverse the double patenting rejection and submit that the claims of the two applications are patentably distinct from each other.

The claims of the present application involve (i) “display characters (means) that are configured to move and to indicate at least one indicium, where the indicium represents a prize, and (ii) controller (means) configured to move the display characters to indicate the indicium. In contrast, the claims of the U.S. Application Serial No. 11/239,784 involve (i) immoveable display characters (means) and (ii) controller (means) configured to cause movement of at least one “moveable” symbol, with the symbol representing a prize or game outcome. The various elements disclosed and claimed in each application are distinctly different from each other and involve explicitly different types of movement (or lack thereof) for the individual elements.

Accordingly, Applicants respectfully request that the double patenting rejection be withdrawn. In the alternative, Applicants respectfully request that the double patenting rejection be held in abeyance until such time that allowable claims are established in one of the two pending applications.

### **SUMMARY**

Applicants respectfully submit that the Amendments and Argument presented above have overcome the outstanding rejections and that the claims are in condition for allowance. If the Examiner has any questions regarding the application or this Amendment, the Examiner is encouraged to call the Applicants’ attorney, Ian F. Burns, at (775) 826-6160.

Respectfully submitted,

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